


Judge's findings, conclusions, and recommendation filed in this case in support of its finding that Petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Id.* at 484.

On August 26, 2019, Petitioner filed a "Motion for Protective Petition." The motion requests the Court to stay and abet his federal habeas proceeding because he has claims unexhausted in state court. "Stay and abeyance is only appropriate when the district court determined there was good cause for the petitioner's failure to exhaust his claims first in state court." *Rhines v. Weber*, 544 U.S. 269, 277 (2005). Petitioner has not presented good cause for his failure to exhaust his claims first in state court. Therefore, Petitioner's motion is DENIED.

If Petitioner files a notice of appeal,

- (X) Petitioner may proceed *in forma pauperis* on appeal. *See* Federal Rule of Appellate Procedure 24(a)(3).
- () Petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

SIGNED September 17, 2019.


MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE